

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CHARLES V. FARNSWORTH,

Plaintiff,

v.

SANDRA CARTER, *et al.*,

Defendants.

Case No. C05-5223RJB

ORDER ADOPTING REPORT  
AND RECOMMENDATION  
AND GRANTING  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT

This matter comes before the court on the Report and Recommendation of Judge J. Kelley Arnold (Dkt. 16). The court has reviewed the Report and Recommendation and the file herein.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

Charles Farnsworth filed a civil rights complaint in Clallam County Superior Court, alleging that his rights to equal protection and meaningful access to a law library and the courts had been violated. Dkt. 1-2 at 7. The defendants removed the case to federal court on the basis of federal question jurisdiction. Dkt. 1. The defendants moved for summary judgment on both claims, arguing that Mr. Farnsworth was not denied access to the library, that he was not in a protected class or denied a fundamental right, that defendant Sandra Carter did not personally participate in the conduct allegedly depriving Mr. Farnsworth of his rights, and that both defendants are entitled to qualified immunity. Dkt. 9.

In his response, Mr. Farnsworth reiterates that even though he had access to the library, he was not granted priority access; that the amount of time during which he was permitted to access the library was insufficient to prepare a motion for discretionary review with the Washington State Supreme Court; that

1 the law library was inadequate; and that despite being eligible and approved, he was not granted priority  
2 access in contrast to other eligible applicants. Dkt. 10.

## 3 II. DISCUSSION

### 4 A. ACCESS TO THE COURTS

5 As fully set forth in the Report and Recommendations, the plaintiff fails to demonstrate that he was denied  
6 access to the library or the courts, and the court should adopt the Report and Recommendation with  
7 respect to that claim.

### 8 B. EQUAL PROTECTION

9 The plaintiff also fails to demonstrate that he was denied equal protection of the law. The Equal  
10 Protection Clause of the Fourteenth Amendment provides that “no State shall ‘deny to any person within  
11 its jurisdiction the equal protection of the laws,’ which is essentially a direction that all persons similarly  
12 situated should be treated alike.” *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985)  
13 (citation omitted). To state an equal protection claim under 42 U.S.C. § 1983, Mr. Farnsworth must  
14 demonstrate that the defendants acted with an intent or purpose to discriminate against him based upon his  
15 membership in a protected class. *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir.1998). The  
16 disproportionate impact on an identifiable group of a “facially neutral” policy may satisfy the intent  
17 requirement only if it shows an invidious or discriminatory purpose underlying the policy. *Village of*  
18 *Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 264-66 (1977). Because offenders eligible  
19 for priority access to law libraries do not constitute a suspect class for equal protection purposes, a policy  
20 that purposefully treats the eligible offenders differently or has a disproportionate impact on eligible  
21 offenders need only be “rationally related to legitimate legislative goals” to pass constitutional muster.  
22 *Does 1-5 v. Chandler*, 83 F.3d 1150, 1155 (9th Cir.1996).

23 The plaintiff’s equal protection allegation reads as follows: “Plaintiff also states that his rights to  
24 equal protection were violated when he was not given priority access, although eligible and approved, as  
25 any other eligible offender under DOC Policy Directive at Clallam Bay.” Dkt. 10 at 8. Reading this  
26 allegation in the light most favorable to the plaintiff, the plaintiff has failed to allege, much less  
27 demonstrate, that he was part of an identifiable group that was intentionally discriminated against or  
28 disproportionately impacted by a facially neutral policy with a discriminatory purpose. The court should

1 therefore grant the motion for summary judgment on the plaintiff's equal protection claim.

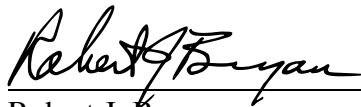
2 **III. ORDER**

3 Therefore, it is hereby

4 **ORDERED** that the Report and Recommendation of Judge J. Kelley Arnold (Dkt. 16)  
5 **ADOPTED**. Defendants' Motion for Summary (Dkt. 9) is **GRANTED**.

6 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any  
7 party appearing *pro se* at said party's last known address.

8 DATED this 28<sup>th</sup> day of November, 2005.

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10 Robert J. Bryan  
11 United States District Judge  
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